working day after notification, the disallowance shall be final on that day.

(iii) In the event that the Administrator does not respond to a conversion claim within the three working days specified in paragraph (b)(4)(ii) of this section, the convertor may proceed with the conversion. EPA will reduce the convertor's balance of unexpended allowances or credits by the amount to be converted plus one percent of that amount. However, if EPA ultimately finds that the convertor did not have sufficient unexpended allowances or credits to cover the claims, the convertor will be held liable for any violations of the regulations of this subpart that occur as a result of, or in conjunction with, the improper conversion.

(5) Effective January 1, 1995, and for every control period thereafter, inter-pollutant trades will be permitted during the 45 days after the end of a control period.

(c) Inter-company transfers and Inter-pollutant conversions.

(1) Until January 1, 1996, for production and consumption allowances; effective January 1, 1995, for Article 5 allowances; and effective January 1, 1996, for destruction and/or transformation credits; if a person requests an inter-company transfer and an inter-pollutant conversion simultaneously, the amount subtracted from the convertor-transferor's unexpended allowances or unexpended credits for the first controlled substance will be equal to 101 percent of the amount of allowances or credits that are being converted and transferred.

(2) [Reserved]

§ 82.13 Recordkeeping and reporting requirements.

(a) Unless otherwise specified, the recordkeeping and reporting requirements set forth in this section take effect on January 1, 1995.

(b) Reports and records required by this section may be used for purposes of compliance determinations. These requirements are not intended as a limitation on the use of other evidence admissible under the Federal Rules of Evidence. Failure to provide the reports and records required by this section, and to certify the accuracy of the information in the reports and records required by this section, will be considered a violation of this subpart.

(c) Unless otherwise specified, reports required by this section must be mailed to the Administrator within 45 days of the end of the applicable reporting period.

(d) Records and copies of reports required by this section must be retained for three years.

(e) In reports required by this section, quantities of controlled substances must be stated in terms of kilograms.

(f) Every person (''producer'') who produces class I controlled substances during a control period must comply with the following recordkeeping and reporting requirements:

(1) Within 120 days of May 10, 1995, or within 120 days of the date that a producer first produces a class I controlled substance, whichever is later, every producer who has not already done so must submit to the Administrator a report describing:

(i) The method by which the producer in practice measures daily quantities of controlled substances produced;

(ii) Conversion factors by which the daily records as currently maintained can be converted into kilograms of controlled substances produced, including any constants or assumptions used in making those calculations (e.g., tank specifications, ambient temperature or pressure, density of the controlled substance);

(iii) Internal accounting procedures for determining plant-wide production;

(iv) The quantity of any fugitive losses accounted for accounted for in the production figures; and

(v) The estimated percent efficiency of the production process for the controlled substance. Within 60 days of any change in the measurement procedures or the information specified in the above report, the producer must submit a report specifying the revised data or procedures to the Administrator.

(2) Every producer of a class I controlled substance during a control period must maintain the following records:

(i) Dated records of the quantity of each controlled substance produced at each facility;

(ii) Dated records of the quantity of controlled substances produced for use in processes that result in their transformation or for use in processes that result in their destruction and quantity sold for use in processes that result in their transformation or for use in processes that result in their destruction;

(iii) Dated records of the quantity of controlled substances produced for an essential-use and quantity sold for use in an essential-use process;

(iv) Dated records of the quantity of controlled substances produced with expended destruction and/or transformation credits;

(v) Dated records of the quantity of controlled substances produced with Article 5 allowances;

(vi) Copies of invoices or receipts documenting sale of controlled substance for use in processes resulting in their transformation or for use in processes resulting in destruction;

(vii) Dated records of the quantity of each controlled substance used at each facility as feedstocks or destroyed in the manufacture of a controlled substance or in the manufacture of any other substance, and any controlled substance introduced into the production process of the same controlled substance at each facility;

(viii) Dated records identifying the quantity of each chemical not a controlled substance produced within each facility also producing one or more controlled substances;

(ix) Dated records of the quantity of raw materials and feedstock chemicals used at each facility for the production of controlled substances;

(x) Dated records of the shipments of each controlled substance produced at each plant;

(xi) The quantity of controlled substances, the date received, and names and addresses of the source of used materials containing controlled substances which are recycled or reclaimed at each plant;

(xii) Records of the date, the controlled substance, and the estimated quantity of any spill or release of a controlled substance that equals or exceeds 100 pounds;

(xiii) Internal Revenue Service Certificates in the case of transformation, or the destruction verification in the case of destruction (as in §82.13(k)), showing that the purchaser or recipient of a controlled substance, in the United States or in another country that is a Party, certifies the intent to either transform or destroy the controlled substance, or sell the controlled substance for transformation or destruction in cases when production and consumption allowances were not expended;

(xiv) Written verifications that essential-use allowances were conveyed to the producer for the production of specified quantities of a specific controlled substance that will only be used for the named essential-use;

(xv) Written certifications that quantities of controlled substances, meeting the purity criteria in Appendix G of this subpart, were purchased by distributors of laboratory supplies or by laboratory customers to be used only for an essential-use laboratory application, and not to be resold or used in manufacturing.

(xvi) Written verifications from a U.S. purchaser that the controlled substance was exported to an Article 5 country in cases when Article 5 allowances were expended during production.

(3) For each quarter, each producer of a class I controlled substance must provide the Administrator with a report containing the following information:

(i) The production by company in that quarter of each controlled substance, specifying the quantity of any controlled substance used in processing, resulting in its transformation by the producer;

(ii) The amount of production for use in processes resulting in destruction of controlled substances by the producer;

(iii) The levels of production (expended allowances and credits) for each controlled substance;

(iv) The producer's total of expended and unexpended production allowances, consumption allowances, Article 5 allowances, and amount of essential-use allowances and destruction and transformation credits conferred at the end of that quarter;

(v) The quantity of used material received containing controlled substances that are recycled or reclaimed;

(vi) The amount of controlled substance sold or transferred during the quarter to a person other than the producer for use in processes resulting in its transformation or eventual destruction;

(vii) A list of the quantities and names of controlled substances exported, by the producer and or by other U.S. companies, to a Party to the Protocol that will be transformed or destroyed and therefore were not produced expending production or consumption allowances;

(viii) For transformation in the United States or by a person of another Party, one copy of an IRS certification of intent to transform the same controlled substance for a particular transformer and a list of additional quantities shipped to that same transformer for the quarter;

(ix) For destruction in the United States or by a person of another Party, one copy of a destruction verification (as under §82.13(k)) for a particular destroyer, destroying the same controlled substance, and a list of additional quantities shipped to that same destroyer for the quarter;

(x) A list of U.S. purchasers of controlled substances that exported to an Article 5 country in cases when Article 5 allowances were expended during production;

(xi) A list of the essential-use allowance holders, distributors of laboratory supplies and laboratory customers from whom orders were placed and the quantity of specific essential-use controlled substances requested and produced;

(xii) The certifications from essential-use allowance holders and laboratory customers stating that the controlled substances were purchased solely for specified essential uses and will not be resold or used in manufacturing; and

(xiii) In the case of laboratory essential uses, a certification from distributors of laboratory supplies that controlled substances were purchased for sale to laboratory customers who certify that the substances will only be used for laboratory applications and will not be resold or used in manufacturing.

(4) For any person who fails to maintain the records required by this paragraph, or to submit the report required by this paragraph, the Administrator may assume that the person has produced at full capacity during the period for which records were not kept, for purposes of determining whether the person has violated the prohibitions at §82.4.

(g) Importers of class I controlled substances during a control period must comply with record-keeping and reporting requirements specified in this paragraph (g).

(1) Recordkeeping—Importers. Any importer of a class I controlled substance (including used, recycled and reclaimed controlled substances) must maintain the following records:

(i) The quantity of each controlled substance imported, either alone or in mixtures, including the percentage of each mixture which consists of a controlled substance;

(ii) The quantity of those controlled substances imported that are used (including recycled or reclaimed) and the information provided with the petition as under §82.13(g)(2);

(iii) The quantity of controlled substances other than transhipments or used, recycled or reclaimed substances imported for use in processes resulting in their transformation or destruction and quantity sold for use in processes that result in their destruction or transformation;

(iv) The date on which the controlled substances were imported;

(v) The port of entry through which the controlled substances passed;

(vi) The country from which the imported controlled substances were imported;

(vii) The commodity code for the controlled substances shipped;

(viii) The importer number for the shipment;

(ix) A copy of the bill of lading for the import;

(x) The invoice for the import;

(xi) The quantity of imports of used, recycled or reclaimed class I controlled substances and class II controlled substances;

(xii) The U.S. Customs entry form;

(xiii) Dated records documenting the sale or transfer of controlled substances for use in processes resulting in transformation or destruction;

(xiv) Copies of IRS certifications that the controlled substance will be transformed or destruction verifications that it will be destroyed (as in §82.13(k));

(xv) Dated records of the quantity of controlled substances imported for an essential-use or imported with destruction and transformation credits; and

(xvi) Copies of documents conveying the right to import controlled substances for specific essential uses, or certifications that imported controlled substances are being purchased for essential laboratory and analytical applications or being purchased for eventual sale to laboratories that certify the controlled substances are for essential laboratory applications.

(2) Petitioning—Importers of Used, Recycled or Reclaimed Controlled Substances and Transhipments. For each individual shipment (not to be aggregated) over 150 pounds of a used, recycled or reclaimed controlled substance as defined in §82.3, an importer must submit to the Administrator, at least 15 working days before the shipment is to leave the foreign port of export, the following information in a petition:

(i) The name and quantity of the used, recycled or reclaimed controlled substance to be imported (including material that has been recycled or reclaimed);

(ii) The name and address of the importer, the importer ID number, the contact person, and the phone and fax numbers;

(iii) Name and address of the source(s) of the used, recycled or reclaimed controlled substance, including a description of the previous use(s), when possible;

(iv) Name and address of the exporter and/or foreign owner of the material,

(v) The U.S. port of entry for the import, the expected date of shipment and the vessel transporting the chemical;

(vi) The intended use of the used, recycled or reclaimed controlled substance;

(vii) The name, address and contact person of the U.S. reclamation facility, where applicable;

(viii) A certification that the purchaser of the used, recycled or reclaimed controlled substance being imported is liable for payment of the tax;

(ix) If the imported controlled substance was reclaimed in a foreign Party, the name and address of the foreign reclamation facility, the contact person at the facility, and the phone and fax number;

(x) If the imported used controlled substance is intended to be sold as a refrigerant in the U.S., the name and address of the U.S. reclaimer who will bring the material to the standard required under section 608 (§82.152(g)) of the CAA, if not already reclaimed to those specifications.

(xi) Rules stayed for reconsideration. Notwithstanding any other provisions of this subpart, the effectiveness of 40 CFR 82.13(g)(2)(viii) is stayed from July 11, 1996 until the completion of the reconsideration of 40 CFR 82.13(g)(2)(viii).

(3) The Administrator will review the information submitted under paragraph (g)(2) of this section and assess the completeness and accuracy of the petition for the import of the used, recycled or reclaimed controlled substance. If the Administrator determines that the information is insufficient, or there is reason to disallow the import, the Administrator will issue an objection notice before the shipment is to leave the foreign port of export (the end of the 15 working days). In the event that the Administrator does not respond to the petition within the 15 working days, the importer may proceed with the import. The importer may re-petition the Agency, if the Administrator indicated insufficient information to make a determination.

(3) Reporting Requirements—Importers. For each quarter, every importer of a class I controlled substance (including importers of used, recycled or reclaimed controlled substances) must submit to the Administrator a report containing the following information:

(i) Summaries of the records required in paragraphs (g)(1) (i) through (xvi) of this section for the previous quarter;

(ii) The total quantity imported in kilograms of each controlled substance for that quarter;

(iii) The quantity of those controlled substances imported that are used, recycled or reclaimed;

(iv) The levels of import (expended consumption allowances before January 1, 1996) of controlled substances for that quarter and totaled by chemical for the control-period-to-date;

(vii) The importer's total sum of expended and unexpended consumption allowances by chemical as of the end of that quarter;

(viii) The amount of controlled substances imported for use in processes resulting in their transformation or destruction;

(ix) The amount of controlled substances sold or transferred during the quarter to each person for use in processes resulting in their transformation or eventual destruction;

(x) The amount of controlled substances sold or transferred during the quarter to each person for an essential use;

(xi) The amount of controlled substances imported with destruction and transformation credits;

(xii) Internal Revenue Service Certificates showing that the purchaser or recipient of imported controlled substances intends to transform those substances or destruction verifications (as in §82.13(k)) showing that purchaser or recipient intends to destroy the controlled substances; and

(xiii) A list of the essential-use allowance holder and/or laboratory from whom orders were placed and the quantity of specific essential-use controlled substances requested and imported.

(h) Reporting Requirements—Exporters. For any exports of class I controlled substances not reported under §82.10 (additional consumption allowances), or under §82.13(f)(3) (reporting for producers of controlled substances), the exporter who exported a class I controlled substances must submit to the Administrator the following information within 45 days after the end of the control period in which the unreported exports left the United States:

(1) The names and addresses of the exporter and the recipient of the exports;

(2) The exporter's Employee Identification Number;

(3) The type and quantity of each controlled substance exported and what percentage, if any, of the controlled substance is used, recycled or reclaimed;

(4) The date on which, and the port from which, the controlled substances were exported from the United States or its territories;

(5) The country to which the controlled substances were exported;

(6) The amount exported to each Article 5 country;

(7) The commodity code of the controlled substance shipped; and

(8) The sales contract certifying that the controlled substance that was exported to a Party to the Protocol will be transformed or destroyed.

(i) Every person who has requested additional production allowances under §82.9(e) or destruction and transformation credits under §82.9(f) or consumption allowances under §82.10(b) or who transforms or destroys class I controlled substances not produced by that person must maintain the following:

(1) Dated records of the quantity and level of each controlled substance transformed or destroyed;

(2) Copies of the invoices or receipts documenting the sale or transfer of the controlled substance to the person;

(3) In the case where those controlled substances are transformed, dated records of the names, commercial use, and quantities of the resulting chemical(s);

(4) In the case where those controlled substances are transformed, dated records of shipments to purchasers of the resulting chemical(s);

(5) Dated records of all shipments of controlled substances received by the person, and the identity of the producer or importer of the controlled substances;

(6) Dated records of inventories of controlled substances at each plant on the first day of each quarter; and

(7) A copy of the person's IRS certification of intent to transform or the purchaser's or recipient's destruction verification of intent to destroy (as under §82.13(k)), in the case where substances were purchased or transferred for transformation or destruction purposes.

(j) Persons who destroy class I controlled substances shall, following promulgation of this rule, provide EPA with a one-time report stating the destruction unit's destruction efficiency and the methods used to record the volume destroyed and those used to determine destruction efficiency and the name of other relevant federal or state regulations that may apply to the destruction process. Any changes to the unit's destruction efficiency or methods used to record volume destroyed and to determine destruction efficiency must be reflected in a revision to this report to be submitted to EPA within 60 days of the change.

(k) Persons who purchase or receive and subsequently destroy controlled class I substances that were originally produced without expending allowances shall provide the producer or importer from whom they purchased or received the controlled substances with a verification that controlled substances will be used in processes that result in their destruction.

(1) The destruction verification shall include the following:

(i) Identity and address of the person intending to destroy controlled substances;

(ii) Indication of whether those controlled substances will be completely destroyed, as defined in §82.3 of this rule, or less than completely destroyed, in which case the destruction efficiency at which such substances will be destroyed must be included;

(iii) Period of time over which the person intends to destroy controlled substances; and

(iv) Signature of the verifying person.

(2) If, at any time, any aspects of this verification change, the person must submit a revised verification reflecting such changes to the producer from whom that person purchases controlled substances intended for destruction.

(l) Persons who purchase class I controlled substances and who subsequently transform such controlled substances shall provide the producer or importer with the IRS certification that the controlled substances are to be used in processes resulting in their transformation.

(m) Any person who transforms or destroys class I controlled substances who has submitted an IRS certificate of intent to transform or a destruction verification (as under §82.13(k)) to the producer of the controlled substance, must report the names and quantities of class I controlled substances transformed and destroyed for each control period within 45 days of the end of such control period.

(n) Every person who produces, imports, or exports class II chemicals must report its quarterly level of production, imports, and exports of these chemicals within 45 days of the end of each quarter (including those substances transformed or destroyed).

(o) Every person who imports or exports used class II controlled substances must report its annual level within 45 days of the end of the control period.

(p) Persons who import or export used controlled substances (including recycled or reclaimed) must label their bill of lading or invoice indicating that the controlled substance is used, recycled or reclaimed.

(q) Persons who import heels of controlled substances must label their bill of lading or invoice indicating that the controlled substance in the container is a heel.

(r) Every person who brings back a container with a heel to the United States, as defined in §82.3, must report quarterly the amount brought into the United States certifying that the residual amount in each shipment is less than 10 percent of the volume of the container and will either:

(1) Remain in the container and be included in a future shipment;

(2) Be recovered and transformed;

(3) Be recovered and destroyed; or

(4) Be recovered for a non-emissive use.

(s) Every person who brings a container with a heel into the United States must report on the final disposition of each shipment within 45 days of the end of the control period.

(t) Every person who transships a controlled substance must maintain records that indicate that the controlled substance shipment originated in a foreign country destined for another foreign country, and does not

enter interstate commerce with the United States.

(u) Any person allocated essential-use allowances who submits an order to a producer or importer for a controlled substance must report the quarterly quantity received from each producer or importer. Any distributor of laboratory supplies receiving controlled substances under the global laboratory essential-use exemption for sale to laboratory customers must report quarterly the quantity received of each controlled substance from each producer or importer.

(v) Any distributor of laboratory supplies who purchased controlled substances under the global laboratory essential-use exemption must submit quarterly copies of certifications received in that quarter from laboratory customers, as under §82.13(w), and the quantity of each controlled substance purchased by each laboratory customer whose certification was previously filed.

(w) A laboratory customer purchasing a controlled substance under the global laboratory essential-use exemption must provide the producer, importer or distributor with a one-time-per-year certification for each controlled substance that the substance will only be used for laboratory applications and not be resold or used in manufacturing. The certification must also include:

(1) The identity and address of the laboratory customer;

(2) The name and phone number of a contact person for the laboratory customer;

(3) The name and quantity of each controlled substance purchased, and the estimated percent of the controlled substance that will be used for each listed type of laboratory application.

[60 FR 24986, May 10, 1995, as amended at 61 FR 3318, Jan. 31, 1996; 61 FR 29486, June 11, 1996]

EFFECTIVE DATE NOTE: At 61 FR 3318, Jan. 31, 1996, §82.13 was amended by staying paragraph (g)(2)(viii), effective Jan. 31, 1996 through Apr. 30, 1996. At 61 FR 29486, June 11, 1996, the stay was extended, effective July 11, 1996.

APPENDIX A TO SUBPART A—CLASS I CONTROLLED SUBSTANCES

Class 1 controlled substances	ODP
A. Group I:	
$CFCl_3$-Trichlorofluoromethane (CFC–ll)	1.0
$CF_2 Cl_2$-Dichlorofifluoromethane (CFC–12)	1.0
$C_2 F_3 Cl_3$-Trichlorotrifluoroethane (CFC–113)	0.8
$C_2 F_4 Cl_2$-Dichlorotetrafluoroethane (CFC–114)	1.0
$C_2 F_5$ Cl-Monochloropentafluoroethane (CFC–115)	0.6
All isomers of the above chemicals	
B. Group II:	
CF_2 ClBr-Bromochlorodifluoromethane (Halon-1211)	3.0
CF_3 Br-Bromotrifluoromethane (Halon-1301)	10.0
$C_2 F_4 Br_2$-Dibromotetrafluoroethane (Halon-2402)	6.0
All isomers of the above chemicals	
C. Group III:	
CF_3 Cl-Chlorotrifluoromethane (CFC–13)	1.0
$C_2 FCl_5$-(CFC–111)	1.0
$C_2 F_2 Cl_4$-(CFC–112)	1.0
$C_3 FCl_7$-(CFC–211)	1.0
$C_3 F_2 Cl_6$-(CFC–212)	1.0
$C_3 F_3 Cl_5$-(CFC–213)	1.0
$C_3 F_4 Cl_4$-(CFC–214)	1.0
$C_3 F_5 Cl_3$-(CFC–215)	1.0
$C_3 F_6 Cl_2$-(CFC–216)	1.0
$C_3 F_7$ Cl-(CFC–217)	1.0
All isomers of the above chemicals	
D. Group IV: CCl_4-Carbon Tetrachloride	1.1
E. Group V:	
$C_2 H_3 Cl_3$-1,1,1 Trichloroethane (Methyl chloroform)	0.1
All isomers of the above chemical except 1,1,2-trichloroethane	
F. Group VI: CH_3 Br—Bromomethane (Methyl Bromide)	0.7
G. Group VII:	
$CHFBR_2$	1.00
CHF_2 Br (HBFC–2201)	0.74
CH_2 FBr	0.73
$C_2 HFBr_4$	0.3–0.8
$C_2 HF_2 Br_3$	0.5–1.8
$C_2 HF_3 Br_2$	0.4–1.6
$C_2 HF_4$ Br	0.7–1.2
$C_2 H_2 FBr_3$	0.1–1.1
$C_2 H_2 F_2 Br_2$	0.2–1.5
$C_2 H_2 F_3$ Br	0.7–1.6
$C_2 H_2 FBr_2$	0.1–1.7
$C_2 H_3 F_2$ Br	0.2–1.1
$C_2 H_4$ FBr	0.07–0.1
$C_3 HFBr_6$	0.3–1.5
$C_3 HF_2 Br_5$	0.2–1.9
$C_3 HF_3 Br_4$	0.3–1.8
$C_3 HF_4 Br_3$	0.5–2.2
$C_3 HF_5 Br_2$	0.9–2.0
$C_3 HF_6$ Br	0.7–3.3
$C_3 H_2 FBR_5$	0.1–1.9
$C_3 H_2 F_2 BR_4$	0.2–2.1
$C_3 H_2 F_3 Br_3$	0.2–5.6
$C_3 H_2 F_4 Br_2$	0.3–7.5
$C_3 H_2 F_5$ BR	0.9–14
$C_3 H_3 FBR_4$	0.08–1.9
$C_3 H_3 F_2 Br_3$	0.1–3.1
$C_3 H_3 F_3 Br_2$	0.1–2.5
$C_3 H_3 F_4$ Br	0.3–4.4
$C_3 H_4 FBr_3$	0.03–0.3
$C_3 H_4 F_2 Br_2$	0.1–1.0
$C_3 H_4 F_3$ Br	0.07–0.8
$C_3 H_5 FBr_2$	0.04–0.4
$C_3 H_5 F_2$ Br	0.07–0.8
$C_3 H_6$ FB	0.02–0.7